

ORIGINAL

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEREMY RATLIFF (#247927),

Plaintiff,

v.

MDOC, ANTHONY SIMMONS, et al,

Defendants.

Docket No. 03 cv 60015

HON. MARIANNE O. BATTANI
MAG. JUDGE SCHEER

Christopher J. Trainor
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Attorney for Plaintiff
6557 Highland Road, Ste. 105
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**DEFENDANT SIMMONS' MOTION IN LIMINE TO EXCLUDE
MICHIGAN DEPARTMENT OF CORRECTIONS' POLICY DIRECTIVE 04.05.110**

NOW COMES Defendant, Anthony Simmons, through his attorney, and requests this Court to grant his motion in limine to exclude Michigan Department of Corrections Policy Directive 04.05.110 as an exhibit at trial.

Pursuant to E.D. Mich. L.R. 7.1(a), Simmons sought concurrence in this motion with Plaintiff's counsel on September 1, 2004. Plaintiff's counsel did not concur in this motion.

Respectfully submitted,

MICHAEL A. COX
Attorney General



John L. Thurber (P44989)
Assistant Attorney General
Corrections Division

Dated: September 3, 2004

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EASTERN DISTRICT OF MICHIGAN
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**BRIEF IN SUPPORT OF DEFENDANTS' MOTION IN LIMINE TO EXCLUDE
MICHIGAN DEPARTMENT OF CORRECTIONS' POLICY DIRECTIVE 04.05.110**

The Plaintiff listed Michigan Department of Corrections ("MDOC") Policy Directive 04.05.110 as an exhibit. (Exhibit P9). The Defendant objects to the Plaintiff introducing PD 04.05.110 at trial. That policy is considered an exempt policy directive by the MDOC.¹ It details how employees should respond to specific situations when inmates use force. Allowing this policy to become an exhibit in a public trial could jeopardize the safety and security of MDOC employees and prisoners across the State.

There is no need for the Plaintiff to introduce this policy at trial. The Defendant concedes that intentionally kicking a door at a prisoner does not constitute a legitimate use of force. Obviously, the Defendant denies doing so, but if the jury believes the Plaintiff's version of events, his allegations would amount to an Eighth Amendment violation.

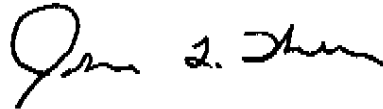
¹ If the Court desires, the Defendant will provide the policy for an *in camera* review.

RELIEF

WHEREFORE, the Defendant requests this Court to prohibit the introduction of MDOC PD 04.05.110 at trial.

Respectfully submitted,

MICHAEL A. COX
Attorney General

A handwritten signature in black ink, appearing to read "John L. Thurber".

John L. Thurber (P44989)
Assistant Attorney General
Corrections Division

Dated: September 3, 2004

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